



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 230508-0124]

RIN 0648-BL66

#### **Fisheries Off West Coast States; West Coast Salmon Fisheries; 2023 Specifications and Management Measures**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** Through this final rule, NMFS establishes fishery management measures for the 2023 ocean salmon fisheries off Washington, Oregon, and California, and the 2024 salmon seasons opening earlier than May 16, 2024, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The fishery management measures vary by fishery and by area, and establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. Exclusive Economic Zone (EEZ) (3-200 nautical miles (nm); 5.6-370.4 kilometers (km)) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-Indian commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement, comply with applicable law, and to provide fishing opportunity for inside fisheries (fisheries occurring in state waters).

**DATES:** This final rule is effective from 0001 hours Pacific daylight time, May 16, 2023, until the effective date of the 2024 management measures, as published in the **Federal Register**.

**ADDRESSES:** The documents cited in this document are available on the Pacific Fishery Management Council's (Council's) website ([www.pcouncil.org](http://www.pcouncil.org)).

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## **SUPPLEMENTARY INFORMATION:**

### **Background**

The ocean salmon fisheries in the EEZ off the coasts of Washington, Oregon, and California are managed under a framework fishery management plan (FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures within limits set by the FMP by notification in the **Federal Register**. Regulations at 50 CFR 660.408 govern the establishment of annual management measures.

Through this rule, NMFS is implementing the management measures for the 2023 and early 2024 ocean salmon fisheries that were recommended by the Council at its April 1 to 7, 2023, meeting and transmitted to NMFS on April 18, 2023.

### **Process Used to Establish 2023 Management Measures**

The Council announced its annual preseason management process for the 2023 ocean salmon fisheries on the Council's website at [www.pcouncil.org](http://www.pcouncil.org) (December 9, 2022), and in the **Federal Register** on December 12, 2021 (87 FR 76027). NMFS published an additional notice of opportunity to submit public comments on the 2023 ocean salmon fisheries in the **Federal Register** on January 12, 2023 (88 FR 2061). These notices announced the availability of Council documents, the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of

events for determining the annual proposed and final modifications to ocean salmon fishery management measures, and instructions on how to comment on the development of the 2023 ocean salmon fisheries. The agendas for the March and April Council meetings were published in the **Federal Register** (88 FR 10095, February 16, 2023, and 88 FR 16239, March 16, 2023), and posted on the Council's website prior to the meetings.

In accordance with the FMP, the Council's Salmon Technical Team (STT) and economist prepared four reports for the Council, its advisors, and the public. All four reports were made available on the Council's website upon their completion. The first of the reports, "Review of 2022 Ocean Salmon Fisheries," was prepared in February when the first increment of scientific information necessary for crafting management measures for the 2023 and early 2024 ocean salmon fisheries became available. The first report summarizes biological and socio-economic data from the 2022 ocean salmon fisheries and assesses the performance of the fisheries with respect to the 2022 management objectives for salmon stocks and stock complexes as well as provides historical information for comparison. The second report, "Preseason Report I Stock Abundance Analysis and Environmental Assessment Part 1 for 2023 Ocean Salmon Fishery Regulations" (PRE I), provides the 2023 salmon stock abundance projections and analyzes how the stocks and Council management goals would be affected if the 2022 management measures (the No-Action Alternative under the National Environmental Policy Act (NEPA)) were continued for the 2023/2024 fishing season. The completion of PRE I is the initial step in developing and evaluating the full suite of preseason alternatives.

Following completion of the first two reports, the Council met from March 4 to 10, 2023, to develop 2023 management alternatives for proposal to the public and consideration under NEPA. The Council proposed three alternatives for commercial and

recreational fisheries management, and three alternatives for treaty Indian fisheries management for analysis and public comment. These alternatives consisted of various combinations of management measures designed to ensure that stocks of coho and Chinook salmon meet conservation goals, to provide for ocean harvests of more abundant stocks, to provide equitable sharing of harvest among ports and gear sectors, and to provide for the exercise of Indian tribal treaty fishing rights. After the March Council meeting, the Council's STT and economist prepared a third report, "Preseason Report II Proposed Alternatives and Environmental Assessment Part 2 for 2023 Ocean Salmon Fishery Regulations" (PRE II), which analyzes the effects of the proposed 2023 management alternatives. As requested in public comment, the no-action alternative was included in a comparison of the impacts to Klamath River Fall Chinook salmon (KRFC) and Sacramento River Fall Chinook salmon (SRFC) by management area, month, and salmon gear sector across the alternatives in Appendix tables A-2 and A-3.

The Council sponsored public hearings in person to receive testimony on the proposed alternatives on March 20, 2023, for Washington and Oregon, and on March 21, 2023, for California. In addition, the states of Washington, Oregon, and California sponsored meetings in various forums that also collected public testimony. The Council also received public testimony at both the March and April meetings, and received written comments at the Council office and electronic submissions via the Council's electronic portal and via *www.regulations.gov*.

The Council met from April 1 to 7, 2023, to adopt its final 2023 ocean salmon management recommendations; which it did on April 6, 2023. Following the April Council meeting, the Council's STT and economist prepared a fourth report, "Preseason Report III Analysis of Council-Adopted Management Measures for 2023 Ocean Salmon Fisheries" (PRE III), which analyzes the environmental and socioeconomic effects of the Council's final recommendations (the Council's Proposed Action under NEPA). The

Council transmitted the recommended management measures to NMFS on April 18, 2023, and published them on its website ([www.pcouncil.org](http://www.pcouncil.org)).

At its March and April meetings, the Council heard testimony from members of several federally recognized tribes including tribes with treaty rights for salmon harvest; additional tribal comments were submitted in writing. Tribes expressed concerns over the uncertainty of forecasts for some stocks in 2023 and urged the Council to be conservative in setting the salmon seasons. Some Tribes suggested additional measures to improve estimation of stock composition and impact rates in lower Columbia River fisheries. Tribes also expressed concerns over the underutilization of hatcheries as a salmon recovery tool while ensuring the operation of the hatcheries minimizing any potential risks to natural-origin fish.

Under the FMP, the ocean salmon management cycle begins May 16 and continues through May 15 of the following year. This final rule is effective on May 16, 2023, consistent with the FMP. Fisheries that begin prior to May 16, 2023, are governed by the final rule implementing the salmon fishery management measures for the 2022 ocean salmon season (87 FR 29690, May 16, 2022). The majority of fisheries recommended by the Council for 2023 begin May 16, 2023, and are authorized under this rule. Salmon fisheries scheduled to begin before May 16, 2023 under the 2022 rule, are:

- Commercial ocean salmon fisheries from the U.S./Canada border to the U.S./Mexico border,
- Recreational ocean salmon fisheries from Cape Falcon, OR, to Humbug Mountain, OR,
- Recreational ocean salmon fisheries from the Oregon/California border to the U.S./Mexico border, and
- Treaty Indian troll ocean salmon fisheries north of Cape Falcon.

Several fisheries scheduled to open between March 15, 2023, and May 15, 2023, have been modified through inseason action to close the fisheries in response to updated salmon stock forecast information for 2023. For purposes of analyzing the impacts of these fisheries on individual stocks relative to the applicable objectives in the FMP, Council analysts assumed fisheries between March 15 to May 15, 2023, would be conducted under the 2022 management measures as modified by the subsequent inseason actions under 50 CFR 660.409.

### **National Environmental Policy Act**

The environmental assessment (EA) for this action comprises the Council's documents described above (PRE I, PRE II, and PRE III), providing an analysis of environmental and socioeconomic effects under NEPA. The EA and its related Finding of No Significant Impact are posted on the NMFS West Coast Region website ([www.fisheries.noaa.gov/region/west-coast](http://www.fisheries.noaa.gov/region/west-coast)).

### **Resource Status**

#### *Stocks of Concern*

The FMP requires that the fisheries be managed to meet escapement-based annual catch limits (ACLs), Endangered Species Act (ESA) consultation requirements, obligations of the Pacific Salmon Treaty (PST) between the U.S. and Canada, and other conservation objectives detailed in the FMP. In addition, under the MSA, all regulations must be consistent with other applicable laws. Because the ocean salmon fisheries are mixed-stock fisheries, "weak stock" management is required to avoid exceeding limits for the stocks with the most constraining limits. Abundance forecasts for individual salmon stocks can vary significantly from one year to the next; therefore, the stocks that constrain the fishery in one year may differ from those that constrain the fishery in the next. For 2023, several stocks will constrain fisheries; these are described below.

Fisheries south of Cape Falcon are limited in 2023 primarily by conservation concerns for KRFC, SRFC, and the ESA-listed Oregon Coast natural (OCN) coho salmon Evolutionarily Significant Unit (ESU), and the ESA-listed California Coastal (CC) Chinook salmon ESU. In 2018, NMFS determined that the KRFC stock was overfished, as defined under the MSA and the FMP. KRFC has not been rebuilt, thus continues to be managed under a rebuilding plan (85 FR 75920, November 27, 2020). In addition to KRFC, three coho salmon stocks (Queets River natural coho salmon, Strait of Juan de Fuca natural coho salmon, and Snohomish River natural coho salmon) were determined in 2018 to be overfished and continue to be managed under rebuilding plans (86 FR 9301, February 12, 2021). Meeting conservation objectives for these three coho salmon stocks will not constrain fisheries in 2023.

Fisheries north of Cape Falcon are limited by conservation requirements for ESA-listed lower Columbia River (LCR) natural tule Chinook salmon. The limitations imposed in order to protect this stock are described below. The alternatives and the Council's adopted management measures for 2023 were designed to avoid exceeding these limitations.

*KRFC (non-ESA-listed)*: Abundance for this non-ESA-listed stock in the last decade has been historically low, and the stock continues to meet the criteria for overfished based on spawning escapement in 2019, 2020, and 2021. The FMP defines "overfished" status in terms of a 3-year geometric mean escapement level and whether it is below the minimum stock size threshold (MSST). The KRFC salmon stock has been below its conservation objective in 7 of the last 8 years, and has been managed under *de minimus* exploitation rates that apply when forecast escapement is below the level associated with maximum sustainable yield ( $S_{MSY}$ ) since 2020. Based on the current harvest control rule, given the 2023 abundance forecast, the lowest level of *de minimis* fishing this year applies, *i.e.*, a total allowable exploitation rate of 10 percent (including

all ocean and river fisheries, including tribal fisheries). This will constrain fisheries south of Cape Falcon. The Council's recommended management measures are forecast to result in a spawning escapement of 23,615 KRFC natural spawners, which is below the stock's minimum stock size threshold (MSST) (30,525). A natural-area escapement of 23,615 adults would represent the 12<sup>th</sup> lowest value over the past 45 years of data. Fisheries managed under the Council's recommended management measures for 2023 for the ocean areas south of Cape Falcon are projected to impact 0 KRFC salmon.

*SRFC (non-ESA-listed)*: SRFC abundance in recent years has been low compared with its conservation objective. In 2021, NMFS declared the SRFC salmon stock rebuilt (87 FR 25429) due to several years of higher escapements. However, low flows and high temperatures in the Sacramento River associated with drought in recent years have adversely affected the stock, escapements in recent years have once again been low. Spawner abundance has been below the  $S_{MSY}$  value of 122,000 in 6 of the last 8 years. The 2022 SRFC escapement was 61,850 Chinook salmon, which is one-half of the  $S_{MSY}$  of 122,000 and the third lowest escapement since 1970. The 3-year geometric mean of spawners is now 102,155 (2020, 2021, and 2022) as compared with the MSST of 91,500 at which the stock would meet the criteria of overfished. The 2023 forecast is one of the lowest on record. Of additional concern with respect to the forecast, forecasts have been higher than the post-season estimates in 6 of the last 8 years by an average of 41 percent. The low forecast for 2023 combined with the recent significant overforecasts increase the risk that SRFC could become overfished again. Taking these factors into consideration, the Council has recommended management measures that are forecast to result in a spawning escapement of 165,000 SRFC natural spawners (although it does not account for the potential forecast error), which is above the escapement goal floor of 122,000. Additionally, according to the STT's projections, only 93 SRFC salmon would be



impacted by the fisheries conducted under the Council's recommended 2023 management measures for the ocean management areas south of Cape Falcon.

*CC Chinook salmon – ESA-listed Threatened:* The CC Chinook salmon ESU has been listed as threatened under the ESA since 1999. As considered in the most recent biological opinion addressing the effects of the fishery on CC Chinook salmon, fisheries are managed to avoid exceeding a 16 percent age-4 ocean harvest rate on KRFC salmon. This measure is used as a surrogate for impacts to CC Chinook salmon, for which information on fishery impacts is extremely limited. The post-season assessment of the 2022 ocean fisheries indicated that the take limit for CC Chinook salmon described in the current biological opinion and Incidental Take Statement had been exceeded. Therefore, in the guidance letter it provided to the Council at its March meeting, NMFS stated that the Council should implement additional measures to avoid exceedance in 2023. Specifically, the guidance letter stated that the Council should (1) manage the 2023 ocean salmon fisheries for a buffered preseason age-4 KRFC rate of 10 percent, and (2) provide for inseason management measures to ensure impacts remain within preseason projections.

The recommended 2023 management measures close Chinook salmon directed commercial and recreational fisheries off the California coast, close commercial salmon fishing in coastal waters south of mid-Oregon, and allow only for recreational fisheries targeting coho salmon off the coast of Oregon. The resulting projected KRFC age-4 ocean harvest rate from these fisheries is 0.3 percent, well below a KRFC age-4 ocean harvest rate of 10 percent. Fisheries south of Cape Falcon scheduled to open prior to May 16, 2024, could be modified through inseason action following Council consideration of these early season fisheries in the context of the 2024 preliminary management measures and stock abundance forecasts for 2024.

NMFS has reinitiated consultation on the effects of the fisheries on CC Chinook salmon, and anticipates completing this consultation before commencement of 2024 fisheries. NMFS has determined that, consistent with sections 7(a)(2) and 7(d) of the ESA, the fisheries conducted under the 2023 management measures will not jeopardize the CC Chinook salmon ESU, would not adversely modify designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

*OCN coho salmon (ESA-listed threatened)*: OCN coho salmon is an aggregate coho salmon stock that largely corresponds to the Oregon coast coho salmon ESU and is a component of the Oregon Production Index (OPI) area coho salmon. Allowable fishery impacts on OCN coho salmon are determined annually using a matrix that considers parental escapement and OPI smolt-to-jack survival. The maximum allowable exploitation rate for 2023 salmon fisheries is a combined marine/freshwater exploitation rate not to exceed 20 percent. In 2023, OCN coho salmon is the limiting coho salmon stock for south of Cape Falcon. The adopted management measures result in a projected exploitation rate of 19.8 percent compared with the maximum allowed 20 percent total exploitation rate (*i.e.*, marine exploitation rate of 14.1 percent and a freshwater exploitation rate of 5.8 percent as rounded to the nearest tenth of a percent).

*LCR Chinook salmon (ESA-listed threatened)*: The LCR Chinook salmon ESU comprises a spring component, a "far-north" migrating bright component, and a tule component. The bright and tule components both have fall run timing. There are twenty-one separate populations within the tule component of this ESU. Unlike the spring or bright populations of the ESU, LCR tule populations are caught in large numbers in Council fisheries, as well as fisheries to the north and in the Columbia River. Therefore, this component of the ESU is the one most likely to constrain Council fisheries in the

area north of Cape Falcon. Council fisheries are managed subject to an abundance-based management (ABM) framework that NMFS analyzed in a 2012 biological opinion, after accounting for anticipated impacts in northern fisheries and freshwater fisheries that are outside the action area. Applying the ABM framework to the 2023 preseason abundance forecast, the total LCR tule exploitation rate for all salmon fisheries is limited to a maximum of 38 percent. Fisheries will be constrained north of Cape Falcon in 2023 such that, when combined with all other salmon fisheries in the ocean and in the Columbia River below Bonneville Dam, the ESA requirement is met.

#### *Other Resource Issues*

*Southern Resident Killer Whale (SRKW) (ESA-listed endangered):* The SRKW distinct population segment (DPS) was listed under the ESA as endangered in 2005 (70 FR 69903, November 18, 2005). After convening and receiving recommendations from a SRKW ad-hoc workgroup, the Council adopted and transmitted to NMFS Amendment 21 to the FMP that includes management measures to address the effects of the fisheries on SRKW. In April 2021, after concluding in a biological opinion that fisheries managed under the FMP including Amendment 21 was not likely to jeopardize SRKW or adversely affect SRKW critical habitat, NMFS approved the Amendment (86 FR 51017, September 14, 2021). The FMP as amended establishes a Chinook salmon annual abundance management threshold below which the Council and NMFS would implement specific measures to limit the effects of the ocean salmon fishery on Chinook salmon prey availability for SRKWs. These measures include time and area closures, a quota limitation for the north of Cape Falcon management area, and temporal shifts in fishing. Amendment 21 provides that the Chinook salmon abundance threshold may need to be updated from the value calculated at the time of the amendment to reflect new scientific information as it becomes available. At its November 2022 meeting, the Council adopted a change to the Chinook salmon abundance threshold for north of Cape Falcon

management area that is used as a management measure to address the effect of Council-area ocean salmon fisheries on the Chinook salmon prey base of SRKW that was implemented under Amendment 21 (Decision Summary Document, November 15, 2023 PFMC). The change incorporated recent updates to two models used to calculate the threshold (FRAM 2022,<sup>1</sup> Shelton et al. 2021). The STT provided a report reviewing the updates to the models to aid the Council in determining the appropriate numerical value of the threshold (November 2022, Agenda Item D.2.a, Supplemental STT Report 2). The updated Chinook salmon abundance threshold is 623,000 Chinook salmon. This new value was reported to the Council in the above-reference preseason reports as required by the FMP.

The Council considered the Chinook salmon abundance relative to the provisions of Amendment 21 when developing the recommended 2023 annual management measures. Because the pre-season estimate of the abundance of Chinook salmon in 2023 (889,900) exceeds the threshold in the FMP (623,000), the Council did not recommend implementation of the additional management measures included in the FMP under Amendment 21 (Preseason Report III; PFMC 2023). The 2023 management measures are consistent with the FMP including Amendment 21.

#### *ACLs and Status Determination Criteria*

ACLs are required for all stocks or stock complexes in the fishery that are not managed under an international agreement, listed under the ESA, or designated as hatchery stocks. For salmon, these reference points are defined in terms of spawner escapement. ACLs are set for two Chinook salmon stocks, SRFC and KRFC, and one coho salmon stock, Willapa Bay natural coho salmon. The Chinook salmon stocks are indicator stocks for the Central Valley Fall Chinook salmon complex, and the Southern

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<sup>1</sup> Salmon modeling and analysis workgroup. 2022. FRAM Documentation. [https://framverse.github.io/fram\\_doc/](https://framverse.github.io/fram_doc/) built October 14, 2022.

Oregon/Northern California Chinook salmon complex, respectively. The Far North Migrating Coastal Chinook salmon complex (FNMC) includes a group of Chinook salmon stocks that are caught primarily in fisheries north of Cape Falcon and other fisheries that occur north of the U.S./Canada border. No ACL is set for FNMC stocks because they are managed subject to provisions of the PST between the U.S. and Canada (the MSA provides an international exception from ACL requirements that applies to stocks or stock complexes subject to management under an international agreement, which is defined as “any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the U.S. is a party” (50 CFR 600.310(h)(1)(ii)). The Columbia Upper River Bright Fall and Summer Chinook salmon stocks are also managed under the provisions of the PST. Other Chinook salmon stocks caught in fisheries north of Cape Falcon are ESA-listed or hatchery produced, and are managed consistent with ESA consultations or hatchery goals. Willapa Bay natural coho salmon is the only coho salmon stock for which an ACL is set, as the other coho salmon stocks in the FMP are either ESA-listed, hatchery produced, or managed under the PST.

ACLs for salmon stocks are escapement-based, which means they establish a number of adults that must escape the fisheries to return to the spawning grounds. ACLs are set based on the annual potential spawner abundance forecast and a fishing rate reduced to account for scientific uncertainty. In addition to ACLs, SRFC and KRFC have conservation objectives expressed in terms of escapement goals that were developed prior to the requirement for ACLs. Where the conservation objectives exceed the ACLs, the Council designs fisheries to achieve the conservation objectives. In developing the 2023 management measures, the Council considered the factors for SRFC and KRFC discussed in sections above.

For SRFC in 2023, the overfishing limit (OFL) is  $S_{OFL} = 169,767$  (potential spawner abundance forecast) multiplied by  $1 - F_{MSY}$  ( $1 - 0.78$ ) or 37,349 returning

spawners ( $F_{MSY}$  is the fishing mortality rate that would result in maximum sustainable yield—MSY).  $S_{ABC}$  (the spawner escapement that is associated with the acceptable biological catch) is 169,767 multiplied by  $1 - F_{ABC}$  ( $1 - 0.70$ ) ( $F_{MSY}$  reduced for scientific uncertainty = 0.70) or 50,930. The  $S_{ACL}$  is set equal to  $S_{ABC}$ , *i.e.*, 50,930 spawners. The adopted management measures provide for a projected SRFC spawning escapement of 164,964.

For KRFC in 2023,  $S_{OFL}$  is 26,238 (potential spawner abundance forecast) multiplied by  $1 - F_{MSY}$  ( $1 - 0.71$ ), or 7,609 returning spawners.  $S_{ABC}$  is 26,238 multiplied by  $1 - F_{ABC}$  ( $1 - 0.68$ ) ( $F_{MSY}$  reduced for scientific uncertainty = 0.68) or 8,396 returning spawners.  $S_{ACL}$  is set equal to  $S_{ABC}$ , *i.e.*, 8,396 spawners. The adopted management measures provide for a projected KRFC spawning escapement of 23,615.

For Willapa Bay natural coho salmon in 2023,  $S_{OFL} = 59,417$  (potential spawner abundance forecast) multiplied by  $1 - F_{MSY}$  ( $1 - 0.74$ ) or 15,448 returning spawners.  $S_{ABC}$  is 59,417 multiplied by  $1 - F_{ABC}$  ( $1 - 0.70$ ) ( $F_{MSY}$  reduced for scientific uncertainty = 0.70) or 17,825.  $S_{ACL}$  is set equal to  $S_{ABC}$ , *i.e.*, 17,825 spawners. The adopted management measures provide for a projected Willapa Bay natural coho salmon spawning escapement of 22,066.

In summary, fisheries managed under the Council's recommended 2023 management measures are expected to result in escapements greater than required to meet the ACLs for all three stocks with defined ACLs.

### **Public Comments**

The Council invited written comments on developing 2023 salmon management measures in their notice announcing public meetings and hearings (87 FR 76027, December 12, 2022). At its March meeting, the Council developed three alternatives for 2023 commercial and recreational salmon management measures having a range of quotas, season structure, and impacts, from the least restrictive in Alternative I to the

most restrictive in Alternative III, as well as three alternatives for 2023 North of Cape Falcon treaty Indian troll salmon management measures. These alternatives are described in detail in PRE II. Subsequently, comments were taken at three public hearings held in March, staffed by representatives of the Council and NMFS. The Council received 59 written comments via their electronic portal and 19 oral comments on 2023 ocean salmon fisheries including members of the public that commented several times. The three public hearings were attended by a total of 93 people; 28 people provided oral comments. Comments came from individual fishers, fishing associations, fish buyers, processors, the general public, and conservation organizations. Written and oral comments addressed the 2023 management alternatives described in PRE II and generally expressed preferences for a specific alternative or for particular season structures. All written comments were made available via the Council's online briefing books for the March and April 2023 Council meetings. In addition to comments collected at the public hearings and those submitted directly to the Council, several people provided oral comments at the March and April 2023 Council meetings. Written and oral comments received were considered by the Council, which includes a representative from NMFS, in developing the recommended management measures transmitted to NMFS on April 18, 2022. NMFS also invited comments to be submitted directly to the Council or to NMFS, via the Federal Rulemaking Portal ([www.regulations.gov](http://www.regulations.gov)) in a notice (88 FR 2061, January 12, 2023); NMFS received no comments via the Federal Rulemaking Portal.

*Comments on alternatives for commercial salmon fisheries.* Many written comments were from commercial salmon fishermen located on the coast of California. Of those written comments, the majority supported Alternative I. Those testifying on north of Cape Falcon commercial salmon fisheries at the Washington hearing supported the 85,000 total allowable catch for Chinook salmon in Alternative I and an allocation schedule more consistent with long term catch percentage averages for tule Chinook

salmon. They expressed concern about the negative economic impact of recent decreases in quota but were encouraged by this year's forecasts and the potential boost to ocean fisheries. Those testifying on south of Cape Falcon commercial salmon fisheries at the Oregon hearing supported Alternative I. Those testifying on south of Cape Falcon commercial salmon fisheries at the California hearing largely supported a full closure given the low forecasts for California salmon stocks. The Council adopted commercial fishing measures north and south of Cape Falcon that are within the range of the alternatives considered.

*Comments on alternatives for recreational fisheries.* Many written comments did not identify the fishery being commented on, either by geography or sector. Those that did submit written comments specifically on recreational fisheries supported Alternative I almost unanimously. Those testifying on north of Cape Falcon favored Alternative I and opening the ocean recreational fishing as early as possible with a season structure that will allow for a stable season lasting into September. In addition, several written and oral comments supported the opportunity for a "bubble" fishery for Tillamook Bay, OR. Those commenting on fisheries south of Cape Falcon were in favor of both Alternative I and II, with those in California supporting a closure of all areas. Several comments addressed the structure of the rollover of any surplus mark-selective coho salmon quota in the Cape Falcon to the Oregon/California border area. Commenters felt that it would be a better option to allow the transfer of quota between recreational and commercial fisheries on an impact neutral basis, prioritizing the needs of the recreational fishery. The Council adopted recreational fishing measures north and south of Cape Falcon that are within the range of alternatives considered.

Additional comments were made regarding the closure of fisheries in southern Oregon from Cape Falcon to Humbug Mountain. Key comments were summarized for response.



*Comment 1:* The three alternatives did not allow the EA to evaluate, nor provide public review, of anything other than a complete closure. The Council should have considered at least one alternative with an open season.

*Response:* NMFS reviewed the alternatives proposed in public comments for the 2023 season and concluded that the proposals are very similar to the fisheries that were in place for the south of Cape Falcon area in 2022, and are thus part of the No-Action Alternative. Therefore, the suggested alternative was effectively evaluated as the No-Action Alternative, which is comprised of the prior year's management measures, in this case the 2022 measures. In PRE I, the effects of the No-Action Alternative with the current year's (2023) salmon forecasts are evaluated so that the Council can consider the effects of those fishing regimes on the achievement of conservation objectives and other FMP provisions under 2023 forecasts. Those forecasts reflect the effect of environmental conditions and other factors influencing the survival of salmon stocks returning in 2023 that may have been different than those affecting salmon stocks returning in 2022. As requested by one commenter, impacts of the No-Action Alternative, inclusive of the fishery suggested by the commenter, was included in a comparison of the impacts to KRFC and SRFC by management area, month, and salmon gear sector across the alternatives in Appendix tables A-2 and A-3 of PRE-II.

*Comment 2:* Open a bubble fishery for Tillamook Bay.

*Response:* The commenter proposed a bubble fishery that would extend the area around Tillamook Bay in particular to provide opportunity to catch hatchery spring Chinook salmon. In the past, bubble fisheries have been used to allow limited fishing with very low impacts on constraining stocks where Chinook salmon retention inside the bubble was limited to marked fish. Although a bubble fishery would provide opportunities to access hatchery spring-run Chinook salmon destined for Tillamook Bay, there is no way to model the impacts solely within the bubble. It is only possible to model

the impacts as if the entire south of Cape Falcon area to the southern end of the Heceta Bank area was open. When the requested bubble area was open in the past, all of the data for catch in that area was mixed with ocean fisheries data. As a result, it is impossible to model and evaluate potential impacts of the bubble fishery alone. Fishing opportunities are available inside Tillamook Bay and the river to harvest fish returning to that area including Tillamook River spring Chinook salmon without accruing impacts to SRFC and KRFC stocks. Additionally, the proposed bubble fishery is entirely in Oregon state waters. The Council weighed the proposal together with the collective public comments and advice from the Council advisory bodies, and concluded that the expected harvest and opportunity from the proposed bubble fishery did not provide the level of benefit that the alternatives with greater spatial and temporal access to coho salmon did for the limited level of KRFC and SRFC impacts accrued.

The control rules for KRFC and SRFC describe maximum allowable exploitation rates at any given level of abundance. The FMP provides that the Council may recommend lower exploitation rates as needed to address uncertainties or other year specific circumstances (PFMC 2022). The Council recommended more conservative management measures that result in lower exploitation rates after considering the uncertainties, low 2023 abundance forecasts and other information described previously in this Rule.

*Comments on SRKW.* NMFS and the Council received comments from several non-governmental organizations (NGOs) regarding SRKW, with one NGO providing 43,745 supporting signatures. Some comments directed at the 2023 annual management measures requested restrictions beyond those included in the Council's alternatives for 2023 ocean salmon management measures, requesting further restriction of catch limits, limiting size of quotas, limiting season lengths, reducing salmon bycatch, and closing additional areas to fishing. The majority of these comments reiterated comments NMFS

previously addressed in the final EA for FMP Amendment 21

(<https://www.fisheries.noaa.gov//action/amendment-21-pacific-coast-salmon-fishery-management-plan>) and in the notice of agency decision (86 FR 51017, September 14, 2021); these comments are critical of Amendment 21 rather than the specifics of the 2023 management measures. In other comments, the NGOs expressed concern that the preseason forecast is biased high and would prefer management measures that would make more Chinook salmon available as prey for SRKW. The Council developed the management measures consistent with the FMP including Amendment 21, which NMFS evaluated consistent with NEPA, and in an ESA biological opinion concluding fisheries managed according to the provisions are not likely to jeopardize SRKW.

The Council, including the NMFS representative, took all of these comments into consideration. The Council's final recommendation generally includes aspects of all three alternatives, while taking into account the best available scientific information, best use of limited opportunity given impacts to stocks of concern, and ensuring that fisheries are consistent with impact limits and accountability measures for ESA-listed species, ACLs, PST obligations, MSA requirements, and tribal fishing rights. The Council and NMFS also considered comments on the NEPA analysis in preparing the final EA.

### **2023 Specifications and Management Measures**

The Council's recommended ocean harvest levels and management measures for the 2023 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations to be responsive to the goals of the FMP, the requirements of the resource, and the socioeconomic factors affecting resource users. The recommendations are consistent with the requirements of the MSA, U.S. obligations to Indian tribes with federally recognized fishing rights, and U.S. international obligations

regarding Pacific salmon. The Council's recommended management measures are consistent with the proposed actions analyzed in NMFS' ESA consultations for those ESA-listed species that may be affected by Council fisheries, and are otherwise consistent with ESA obligations. Accordingly, NMFS, through this final rule, approves and implements the Council's recommendations.

North of Cape Falcon, 2023 management measures for non-Indian commercial troll and recreational fisheries have slightly increased quotas for Chinook salmon compared to 2022 due to the increased forecasts of Columbia River hatchery tule Chinook salmon. This includes a combined production of returning lower Columbia River hatchery Chinook salmon and Spring Creek Hatchery Chinook salmon. The 2023 coho salmon quotas are slightly decreased but similar to the 2022 quota due to similar abundance forecasts for Columbia River and coastal Washington coho salmon stocks and constrained by low forecasts for Thompson River natural coho salmon. Overall, north of Cape Falcon non-Indian commercial and recreational total allowable catch (TAC) in 2023 is 78,000 Chinook salmon and 190,000 coho salmon marked with a healed adipose fin clip. The commercial troll fishery, north of Cape Falcon, will have a May-June Chinook salmon only fishery with a quota of 26,000 Chinook salmon, and a July-September fishery with a quota of 13,000 Chinook salmon or 30,400 marked coho salmon. The recreational fishery, north of Cape Falcon, will have a June-September fishery with a TAC of 39,000 Chinook salmon and 159,600 marked coho salmon, with subarea quotas.

Quotas for the 2023 treaty-Indian commercial troll fishery north of Cape Falcon are 45,000 Chinook salmon and 57,000 coho salmon in ocean management areas and Washington State Statistical Area 4B combined. These quotas provide a slightly higher amount of Chinook salmon and substantially more coho salmon than in 2022. The treaty-Indian commercial fisheries include a May-June fishery with a quota of 22,500 Chinook

salmon, and a July-September fishery, with quotas of 22,500 Chinook salmon and 57,000 coho salmon.

South of Cape Falcon, 2023 commercial troll and recreational fishery management measures are designed to meet conservation and management goals for KRFC and SRFC spawning escapement and to not exceed the ESA-take limits for CC Chinook salmon and OCN Chinook salmon. Overall, south of Cape Falcon non-Indian commercial TAC for coho salmon is 10,000. For the recreational fishery, overall coho salmon TAC is 110,000 coho salmon marked with a healed adipose fin clip (marked), and 25,000 coho salmon in the non-mark-selective coho salmon fishery.

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before mid-May of the same year. Therefore, this action also establishes the 2024 fishing season that opens earlier than May 16. The Council recommended, and NMFS concurs, that the commercial and recreational seasons will open in 2024 as indicated under the “Season Description” headings (in **“Section 1. Commercial Management Measures for 2023 Ocean Salmon Fisheries”** and **“Section 2. Recreational Management Measures for 2023 Ocean Salmon Fisheries”**) of this final rule. At the March and/or April 2024 meeting, NMFS may take inseason action, if recommended by the Council, to adjust the commercial and recreational seasons prior to the effective date of the 2024 management measures, which are expected to be effective in mid-May 2024. The Council recommended, and NMFS concurs, that the Treaty Indian ocean troll seasons will open in 2024 as indicated under the “Season Description” headings (in **“Section 3. Treaty Indian Management Measures for 2023 Ocean Salmon Fisheries”**). In 2024, the Treaty Indian ocean troll season will open May 1, consistent with all preseason regulations in place for Treaty Indian Troll fisheries during May 16-June 30, 2023. This opening could be modified following Council review at its March and/or April 2024 meetings.

Sections 1, 2, and 3 below set out the final specifications and management measures for the ocean salmon fishery for 2023 and, as specified, for 2024. Section 1 governs commercial fisheries; Section 2 governs recreational fisheries; and Section 3 governs Treaty Indian Fisheries. Also, Section 4 below provides requirements for halibut retention; Section 5 provides geographical landmarks; and Section 6 specifies notice procedures for inseason modifications. These measures were recommended by the Council and approved by NMFS. Those elements of the measures set forth below that refer to fisheries implemented prior to May 16, 2023, were promulgated in our 2022 rule (87 FR 29690, May 16, 2022) and modified by inseason action at the March and April 2022 Council meetings (88 FR 21112, April 10, 2023), and are included for information only and to provide continuity for the public and for states adopting conforming regulations each May that refer to the Federal rule for the same year.

#### **Section 1. Commercial Management Measures for 2023 Ocean Salmon Fisheries**

Parts A, B, and C of this section contain restrictions that must be followed for lawful participation in the fishery. Part A identifies each fishing area and provides the geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies requirements, definitions, restrictions, and exceptions.

Fisheries may need to be adjusted through inseason action to meet NMFS ESA consultation standards, FMP requirements, other management objectives, or upon receipt of new allocation recommendations from the California Fish and Game Commission.

##### *A. Season Description*

North of Cape Falcon, OR

- U.S./Canada border to Cape Falcon

May 1 - 15, 2023.

May 16 through the earlier of June 29, or 26,000 Chinook salmon. No more than 6,890 of which may be caught in the area between the U.S./Canada border and the Queets River, and no more than 6,040 of which may be caught in the area between Leadbetter Point and Cape Falcon (see C.8).

May 16 - June 21; open 7 days per week (see C.1); then

June 22 - June 29.

In the area between the U.S./Canada border and the Queets River the landing and possession limit is 70 Chinook salmon per vessel per landing week (Thursday - Wednesday) and June 22 - 29. Landing limits will be evaluated weekly inseason (see C.1, C.6).

In the area between the Queets River and Leadbetter Point the landing and possession limit is 150 Chinook salmon per vessel per landing week (Thursday - Wednesday) and June 22 - 29. Landing limits will be evaluated weekly inseason (see C.1, C.6).

In the area between Leadbetter Point and Cape Falcon the landing and possession limit is 60 Chinook salmon per vessel per landing week (Thursday - Wednesday) and June 22 - 29. Landing limits will be evaluated weekly inseason (see C.1, C.6).

All salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches (68.5 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3).

When it is estimated that approximately 50 percent of the overall Chinook salmon quota or any Chinook salmon subarea guideline has been landed, inseason action may be considered to ensure the quota and subarea guidelines are not exceeded. If the Chinook salmon quota is exceeded, the excess will be deducted from the all-salmon season (see C.5).

In 2024, the season will open May 1 consistent with all preseason regulations in place in this area and subareas during May 16 - June 30, 2023, including subarea salmon guidelines and quotas and weekly vessel limits except as described below for vessels fishing or in possession of salmon north of Leadbetter Point. This opening could be modified following Council review at its March and/or April 2024 meetings.

July 1 through the earlier of September 30, or 13,000 Chinook salmon or 30,400 marked coho salmon (see C.8).

Open 7 days per week. All salmon. Chinook salmon minimum size limit of 27 inches (68.5 cm) total length. Coho salmon minimum size limit of 16 inches (40.6 cm) total length (see B, C.1). All coho salmon must be marked with a healed adipose fin clip (see C.8.d). No chum salmon retention north of Cape Alava, WA, in August and September (see C.4, C.7). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3).

Landing and possession limit of 150 marked coho salmon per vessel per landing week (Thursday - Wednesday). Landing limits will be evaluated weekly inseason (C.1).

When it is estimated that approximately 50 percent of the overall Chinook salmon quota has been landed, inseason action may be considered to ensure the quota is not exceeded.

A non-selective coho salmon fishery that is impact neutral relative to the preseason assessment may be considered through inseason management action later in the season.

For all commercial troll fisheries north of Cape Falcon: Mandatory closed areas include Salmon Troll Yelloweye Rockfish Conservation Area (YRCA), Cape Flattery, and Columbia Control Zones. Vessels must land and deliver their salmon within 24 hours of any closure of this fishery. Vessels may not land fish east of the Sekiu River or east of Tongue Point, OR. Vessels fishing or in possession of salmon north of Leadbetter Point



must land and deliver all species of fish in a Washington port and must possess a Washington troll and/or salmon delivery license. For delivery to Washington ports south of Leadbetter Point, vessels must notify Washington Department of Fish and Wildlife (WDFW) at 360-249-1215 prior to crossing the Leadbetter Point line with area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and destination with approximate time of delivery. During any single trip, only one side of the Leadbetter Point line may be fished (see C.11).

Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver all species of fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land all species of fish in Garibaldi, OR. All Chinook salmon caught north of Cape Falcon and being delivered by boat to Garibaldi, OR must meet the minimum legal total length of 28 inches (71.1 cm) for Chinook salmon for south of Cape Falcon seasons unless the season in waters off Garibaldi, OR have been closed for Chinook salmon retention for more than 48 hours (see C.1).

Under state law, vessels must report their catch on a state fish receiving ticket. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point and Cape Falcon to notify the Oregon Department of Fish and Wildlife (ODFW) within one hour of delivery or prior to transport away from the port of landing by either calling 541-857-2546 or sending notification via e-mail to *nfalcon.trollreport@odfw.oregon.gov*. Notification shall include vessel name and number, number of salmon by species, port of landing and location of delivery, and estimated time of delivery. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (see C.8).

Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 with area fished, total Chinook salmon, coho salmon, and halibut catch abroad, and destination. Vessels in possession of salmon south of the Queets River may not cross the Queets River line without first notifying WDFW at 360-249-1215 with area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and destination (see C.11). Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (see C.8).

South of Cape Falcon, OR

- Cape Falcon to Humbug Mountain

September 1 - October 31 (see C.9.a)

Open 7 days per week. All salmon, through the earlier of September 30 or reaching the 10,000 non mark-selective coho salmon quota; all salmon except coho salmon thereafter (see C.4, C.7). Coho salmon minimum size limit of 16 inches (40.6 cm) total length, and Chinook salmon minimum size limit of 28 inches (71.1 cm) total length (see B, C.1). All vessels fishing in the area must land their salmon in the State of Oregon. See gear restrictions and definitions (see C.2, C.3). Beginning October 1, open shoreward of the 40-fathom (73-meter) regulatory line (see C.5.f).

No more than 75 Chinook salmon allowed per vessel per landing week (Thursday - Wednesday), (see C.8.f).

Coho salmon quota of 10,000 non-mark selective. No more than 75 coho salmon allowed per vessel per landing week (Thursday - Wednesday). Vessel limits may be modified inseason (see C.8.f).

Any remainder of the mark-selective coho salmon quota from Cape Falcon to Humbug Mountain recreational fishery may be transferred inseason to the Cape Falcon to

Humbug Mountain troll fishery on an impact neutral basis. Recreational fishery needs will be prioritized for this transfer (see C.8.h).

In 2024, the season will be open March 15 for all salmon except coho salmon. Chinook salmon minimum size limit of 28 inches (71.1 cm) total length. Gear restrictions are the same as in 2023. This opening could be modified following Council review at its March 2024 meeting.

- Humbug Mountain to Oregon/California border (Oregon Klamath Management Zone (KMZ))

Closed in 2023.

In 2024, the season will open March 15 for all salmon except coho salmon. Chinook salmon minimum size limit of 28 inches (71.1 cm) total length. Gear restrictions are the same as in 2023. This opening could be modified following Council review at its March 2024 meeting.

- Oregon/California border to Humboldt South Jetty (California KMZ)

Closed in 2023.

In 2024, the season will open May 1 through the earlier of May 31, or a 3,000 Chinook salmon quota. Chinook salmon minimum size limit of 27 inches (68.5 cm) total length. Landing and possession limit of 20 Chinook salmon per vessel per day (see C.8.f). Open 5 days per week (Friday - Tuesday). All salmon except coho salmon (see C.4, C.7). Any remaining portion of Chinook salmon quotas may be transferred in season on an impact neutral basis to the next open quota period (see C.8.b). All fish caught in this area must be landed within the area, within 24 hours of any closure of the fishery (see C.6), and prior to fishing outside the area (see C.10). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Klamath Control Zone closed (see C.5.e). See California State regulations for an additional closure adjacent to the Smith

River. This opening could be modified following Council review at its March or April 2024 meetings.

- Humboldt South Jetty to Latitude 40°10' N

Closed in 2023.

When the fishery is closed between the Oregon/California border and Humbug Mountain, vessels with fish on board caught in the areas open to salmon fishing off California may seek temporary mooring in Brookings, OR prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide with vessel name, number of fish on board, and estimated time of arrival (see C.6).

- Latitude 40°10' N to Point Arena (Fort Bragg)

Closed in 2023.

In 2024, the season will open April 16 for all salmon except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches (68.5 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). All salmon must be landed in California and north of Point Arena (see C.6, C.11). Landing and possession limits may be considered inseason (see C.8.g). This opening could be modified following Council review at its March 2024 meeting.

- Point Arena to Pigeon Point (San Francisco)

Closed in 2023.

In 2024, the season will open on May 1 for all salmon except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches (68.5 cm) total length (see B, C.1). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Landing and possession limits may be considered inseason (see C.8.g). This opening could be modified following Council review at its March or April 2024 meeting.

- Point Reyes to Point San Pedro (Fall Area Target Zone)

Closed in 2023.

- Pigeon Point to the U.S./Mexico border (Monterey)

Closed in 2023.

In 2024, the season will open on May 1 for all salmon except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches (68.5 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Landing and possession limits may be considered inseason (see C.8.g). This opening could be modified following Council review at its March or April 2024 meeting.

California State regulations require all salmon be made available to a California Department of Fish and Wildlife (CDFW) representative for sampling immediately at port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFW, shall immediately relinquish the head of the salmon to the State (California Fish and Game Code §8226).

*B. Minimum Size (Inches) (See C.1)*

**Table 1 – Minimum Size Limits for Salmon in the 2023 Commercial Ocean Salmon Fisheries.**

Area (when open)	Chinook		Coho		Pink
	Total Length	Head-off	Total Length	Head-off	
North of Cape Falcon, OR	27.0 in	20.5 in	16 in	12 in	None
Cape Falcon to Humbug Mountain	28.0 in	21.5 in	16 in	12 in	None
Humbug Mountain to OR/CA border	28.0 in	21.5 in	-	-	None
OR/CA border to Humboldt South Jetty	-	-	-	-	-
Lat. 40°10'0" N to Point Arena	-	-	-	-	-
Point Arena to Pigeon Point	-	-	-	-	-
Pigeon Point to U.S./Mexico border	-	-	-	-	-

Metric equivalents: 28.0 in=71.1 cm, 27.0 in=68.5 cm, 26 in=66 cm, 21.5 in=54.6 cm, 20.5 in=52.1 cm, 19.5 in=49.5 cm, 16.0 in=40.6 cm, and 12.0 in=30.5 cm.

*C. Requirements, Definitions, Restrictions, or Exceptions*

### C.1. Compliance with Minimum Size or Other Special Restrictions

All salmon on board a vessel must meet the minimum size, landing/possession limit, or other special requirements for the area being fished and the area in which they are landed if the area is open or has been closed less than 48 hours for that species of salmon. Salmon may be landed in an area that has been closed for a species of salmon more than 48 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the area in which they were caught. Salmon may not be filleted prior to landing.

Any person who is required to report a salmon landing by applicable state law must include on the state landing receipt for that landing both the number and weight of salmon landed by species. States may require fish landing/receiving tickets be kept on board the vessel for 90 days or more after landing to account for all previous salmon landings.

### C.2. Gear Restrictions

- a. Salmon may be taken only by hook and line using single point, single shank, barbless hooks.
- b. Cape Falcon to the Oregon/California border: no more than 4 spreads are allowed per line.
- c. Oregon/California border to U.S./Mexico border: no more than 6 lines are allowed per vessel, and barbless circle hooks are required when fishing with bait by any means other than trolling.

### C.3. Gear Definitions

*Trolling:* Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

*Troll fishing gear:* One or more lines that drag hooks behind a moving fishing vessel engaged in trolling. In that portion of the fishery management area off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

*Spread:* A single leader connected to an individual lure and/or bait.

*Circle hook:* A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

#### C.4. Vessel Operation in Closed Areas with Salmon on Board

- a. Except as provided under C.4.b below, it is unlawful for a vessel to have troll or recreational gear in the water while in any area closed to fishing for a certain species of salmon while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species, and no salmon are in possession.
- b. When Genetic Stock Identification (GSI) samples will be collected in an area closed to commercial salmon fishing, the scientific research permit holder shall notify NOAA Office of Law Enforcement, U.S. Coast Guard (USCG), CDFW, WDFW, ODFW, and Oregon State Police at least 24 hours prior to sampling and provide the following information: the vessel name, date, location and time collection activities will be done. Any vessel collecting GSI samples in a closed area shall not possess any salmon other than those from which GSI samples are being collected. Salmon caught for collection of GSI samples must be immediately released in good condition after collection of samples.

#### C.5. Control Zone Definitions.

- a. *Cape Flattery Control Zone* - The area from Cape Flattery (48°23'00" N lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery south to Cape Alava (48°10'00" N lat.) and east of 125°05'00" W long.

- b. *Salmon Troll YRCA* – The area in Washington Marine Catch Area 3 from 48°00.00' N lat.; 125°14.00' W long. to 48°02.00' N lat.; 125°14.00' W long. to 48°02.00' N lat.; 125°16.50' W long. to 48°00.00' N lat.; 125°16.50' W long. and connecting back to 48°00.00' N lat.; 125°14.00' W long.
- c. *Grays Harbor Control Zone* - The area defined by a line drawn from the Westport Lighthouse (46°53'18" N lat., 124° 07'01" W long.) to Buoy #2 (46°52'42" N lat., 124°12'42" W long.) to Buoy #3 (46°55'00" N lat., 124°14'48" W long.) to the Grays Harbor north jetty (46°55'36" N lat., 124°10'51" W long.).
- d. *Columbia Control Zone* - An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N lat., 124°06'50" W long.) and the green lighted Buoy #7 (46°15'09" N lat., 124°06'16" W long.); on the east, by the Buoy #10 line that bears north/south at 357° true from the south jetty at 46°14'00" N lat., 124°03'07" W long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N lat., 124°05'20" W long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N lat., 124°04'05" W long.), and then along the south jetty to the point of intersection with the Buoy #10 line.
- e. *Klamath Control Zone* - The ocean area at the Klamath River mouth bounded on the north by 41°38'48" N lat. (approximately 6 nm (11 km) north of the Klamath River mouth); on the west by 124°23'00" W long. (approximately 12 nm (22 km) off shore); and on the south by 41°26'48" N lat. (approximately 6 nm (11km) south of the Klamath River mouth).



- f. Waypoints for the 40-fathom (73-meter) regulatory line from Cape Falcon to Humbug Mountain (50 CFR 660.71 (o) (12)-(62)), when in place.

#### C.6. Notification When Unsafe Conditions Prevent Compliance with Regulations

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the USCG and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate number of salmon (by species) on board, the estimated time of arrival, and the specific reason the vessel is not able to meet special management area landing restrictions.

In addition to contacting the USCG, vessels fishing south of the Oregon/California border must notify CDFW within 1 hour of leaving the management area by calling 800-889-8346 and providing the same information as reported to the USCG. All salmon must be offloaded within 24 hours of reaching port.

#### C.7. Incidental Halibut Harvest

Permit applications for incidental harvest for halibut during commercial salmon fishing must be obtained from the NMFS West Coast Region (WCR) Permits Office.

- a. Pacific halibut retained must be no less than 32 inches (81.3 cm) in total length (with head on).
- b. During the salmon troll season, incidental harvest is authorized only during April, May, and June, and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800-662-9825 or 206-526-6667). WDFW, ODFW, and CDFW will monitor landings. If the landings are projected to exceed the preseason allocation for this fishery or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery. See the most current Pacific Halibut Catch Sharing Plan (88 FR 14066, March 7, 2023) for more details.

- c. Incidental Pacific halibut catch regulations in the commercial salmon troll fishery adopted for 2023, prior to any 2023 inseason action, will be in effect when incidental Pacific halibut retention opens on April 1, 2023, unless otherwise modified by inseason action at the March 2023 Council meeting.

Beginning May 16, 2023, through the end of the 2023 salmon troll fishery, and beginning April 1, 2024, until modified through inseason action or superseded by the 2024 management measures, permit holders may land or possess no more than one Pacific halibut per two Chinook salmon, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 35 halibut may be possessed or landed per trip.

- d. “C-shaped” YRCA is an area to be voluntarily avoided for salmon trolling. NMFS and the Council request salmon trollers voluntarily avoid this area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North Coast subarea (Washington marine area 3), with the following coordinates in the order listed:

48°18' N lat.; 125°18' W long.

48°18' N lat.; 124°59' W long.

48°11' N lat.; 124°59' W long.

48°11' N lat.; 125°11' W long.

48°04' N lat.; 125°11' W long.

48°04' N lat.; 124°59' W long.

48°00' N lat.; 124°59' W long.

48°00' N lat.; 125°18' W long.

And connecting back to 48°18' N lat.; 125°18' W long.

#### C.8. Inseason Management

In addition to standard inseason actions or modifications already noted under the Season Description heading above, the following inseason guidance applies:

- a. Chinook salmon remaining from the May through June non-Indian commercial troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline if the transfer would not result in exceeding preseason impact expectations on any stocks.
- b. Chinook salmon remaining from May, June, and/or July non-Indian commercial troll quotas in the Oregon or California KMZ may be transferred to the Chinook salmon quota for the next open period if the transfer would not result in exceeding preseason impact expectations on any stocks.
- c. NMFS may transfer salmon between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the areas' representatives on the Salmon Advisory Subpanel (SAS), and if the transfer would not result in exceeding preseason impact expectations on any stocks.
- d. The Council will consider inseason recommendations for special regulations for any experimental fisheries annually in March; proposals must meet Council protocol and be received in November the year prior.
- e. If retention of unmarked coho salmon (adipose fin intact) is permitted by inseason action, the allowable coho salmon quota will be adjusted to ensure preseason projected impacts on all stocks is not exceeded.
- f. Landing limits may be modified inseason to sustain season length and keep harvest within overall quotas.
- g. Landing limits in California may be implemented and/or modified inseason to sustain season length and keep harvest within preseason expectations.
- h. Deviations from the allocation of allowable ocean harvest of coho salmon in the area south of Cape Falcon may be allowed to meet consultation standards for

ESA-listed stocks (FMP 5.3.2). Therefore, any rollovers that result in a deviation from the south of Cape Falcon coho salmon allocation schedule between sectors would still fall underneath this exemption.

#### C.9. State Waters Fisheries

Consistent with Council management objectives:

- a. The state of Oregon may establish additional late-season fisheries in state waters.
- b. The state of California may establish limited fisheries in selected state waters.
- c. Check state regulations for details.

C.10. For the purpose of California Fish and Game Code, Section 8232.5, the definition of the KMZ for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to the Southern KMZ Boundary.

C.11. Latitudes for geographical reference of major landmarks along the West Coast are listed in Section 5 of this final rule.

### **Section 2. Recreational Management Measures for 2023 Ocean Salmon Fisheries**

Parts A, B, and C of this section contain restrictions that must be followed for lawful participation in the fishery. Part A identifies each fishing area and provides the geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions, and exceptions.

Fisheries may need to be adjusted through inseason action to meet NMFS ESA consultation standards, FMP requirements, other management objectives, or upon receipt of new allocation recommendations from the California Fish and Game Commission.

#### *A. Season Description*

North of Cape Falcon, OR

- U.S./Canada border to Cape Alava (Neah Bay Subarea)

June 17 through earlier of September 30, or 16,600 marked coho salmon subarea quota, with a subarea guideline of 8,710 Chinook salmon (see C.5).

Open 7 days per week. All salmon except no chum salmon beginning August 1; two salmon per day, of which only one may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip. See minimum size limits (see B). See gear restrictions and definitions (see C.1, C.2, C.3).

An impact neutral non-selective coho salmon fishery may be considered through inseason management action later in the season.

Beginning August 1, no Chinook salmon retention east of the Bonilla-Tatoosh line (see C.4.a) during Council managed ocean fishery. Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational TACs for north of Cape Falcon (see C.5).

- Cape Alava to Queets River (La Push Subarea)

June 17 through earlier of September 30, or 4,150 marked coho salmon subarea quota, with a subarea guideline of 1,440 Chinook salmon (see C.5).

Open 7 days per week. All salmon, except no chum salmon beginning August 1; two salmon per day, of which only one may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip. See minimum size limits (see B). See gear restrictions and definitions (see C.1, C.2, C.3).

Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational TACs for north of Cape Falcon (see C.5).

An impact neutral non-selective coho salmon fishery may be considered through inseason management action later in the season.

October 3 through earlier of October 7, or 150 Chinook salmon quota (see C.5) in the area north of 47°50'00" N lat. and south of 48°00'00" N lat.

Chinook salmon only, one Chinook salmon per day. See minimum size limits (see B). See gear restrictions and definitions (see C.1, C.2, C.3).

Fishery may be closed if extreme freshwater temperature and/or flow events occur in the Quillayute basin in September.

- Queets River to Leadbetter Point (Westport Subarea)

June 24 through earlier of September 30, or 59,050 marked coho salmon subarea quota, with a subarea guideline of 17,210 Chinook salmon (see C.5).

Open 7 days per week. All salmon, two salmon per day, of which only one may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip. See gear restrictions and definitions (see C.1, C.2, C.3). Chinook salmon minimum size limit of 22 inches (55.9 cm) total length (see B).

An impact neutral non-selective coho salmon fishery may be considered through inseason management action later in the season.

Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational TACs for north of Cape Falcon (see C.5).

- Leadbetter Point to Cape Falcon (Columbia River Subarea)

June 24 through earlier of September 30, or 79,800 marked coho salmon subarea quota, with a subarea guideline of 11,490 Chinook salmon (see C.5).

Open 7 days per week. All salmon, two salmon per day, of which only one may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip. See gear restrictions and definitions (see C.1, C.2, C.3). Chinook salmon minimum size limit of 22 inches (55.9 cm) total length (see B).

An impact neutral non-selective coho salmon fishery may be considered through inseason management action later in the season.

Columbia Control Zone closed (see C.4.c). Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational TACs for north of Cape Falcon (see C.5).

South of Cape Falcon, OR

*Mark-selective coho salmon fishery:*

-Cape Falcon to Oregon/California border

June 17 through the earlier of August 31, or 110,000 marked coho salmon quota (see C.6).

Open 7 days per week. All salmon except Chinook salmon, two salmon per day. All retained coho salmon must be marked with a healed adipose fin clip (see C.1). See minimum size limits (see B). See gear restrictions and definitions (see C.2, C.3).

Any remainder of the mark-selective coho salmon quota may be transferred inseason on an impact neutral basis to the recreational and/or commercial troll quotas for the non-selective coho salmon fishery from Cape Falcon to Humbug Mountain.

Recreational needs will be prioritized for this transfer (see C.5).

- Cape Falcon to Humbug Mountain

September 1 - October 31 (see C.6).

Open 7 days per week. All salmon except coho salmon, except as described in the non-mark-selective coho salmon fishery (see C.5), one fish per day (see C.1). Chinook salmon minimum size limit of 24 inches (61.0 cm) total length (see B). See gear restrictions and definitions (see C.2, C.3). Beginning October 1, open only shoreward of the 40-fathom (73-meter) regulatory line (see C.5.g).

In 2024, the season will open March 15 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches (61 cm) total length (see B); and the same gear restrictions as in 2023 (see C.2, C.3). This opening could be modified following Council review at its March 2024 meeting.

*Non-mark-selective coho salmon fishery:*

- Cape Falcon to Humbug Mountain

September 1 through the earlier of September 30, or 25,000 non-mark-selective coho salmon quota (see C.6). Open days may be modified inseason.

Open 7 days per week. All salmon, two salmon per day only one of which may be a Chinook salmon (see C.1). See minimum size limits (see B). See gear restrictions and definitions (see C.2, C.3).

For recreational fisheries from Cape Falcon to Humbug Mountain: Fishing in the Stonewall Bank YRCA is restricted to trolling only on days the all depth recreational halibut fishery is open (call the halibut fishing hotline 1-800-662-9825 for specific dates) (see C.3.b, C.4.d).

- Oregon/California Border to latitude 40°10' N. (California KMZ)

Closed in 2023.

In 2024, season opens May 1 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches (50.8 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Bag limits may be modified in season. This opening could be modified following Council review at its March or April 2024 meeting.

- Latitude 40°10' N to Point Arena (Fort Bragg)

Closed in 2023.

In 2024, season opens April 6 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches (50.8 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Bag limits may be modified in season. This opening could be modified following Council review at its March or April 2024 meeting.

- Point Arena to Pigeon Point (San Francisco)



Closed in 2023.

In 2024, season opens April 6 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches (61.0 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Bag limits may be modified in season. This opening could be modified following Council review at its March or April 2024 meeting.

- Pigeon Point to U.S./Mexico Border (Monterey)

Closed in 2023.

In 2024, season opens April 6 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches (61.0 cm) total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Bag limits may be modified in season. This opening could be modified following Council review at its March or April 2024 meeting.

California State regulations require all salmon be made available to a CDFW representative for sampling immediately at port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFW, shall immediately relinquish the head of the salmon to the state (California Code of Regulations Title 14 Section 1.73).

*B. Minimum Size (Total Length in Inches) (See C.1)*

**Table 2 – Minimum Size Limits for Salmon in the 2023 Recreational Salmon Fisheries**

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon (Westport and Columbia River)	22.0 in	16.0 in	None
North of Cape Falcon (Neah Bay and La Push)	24.0 in	16.0 in	None
Cape Falcon to Humbug Mountain	24.0 in	16.0 in	None
Humbug Mountain to Oregon/California border	24.0 in	16.0 in	None
Oregon/California border to Point Arena	-	-	-
Point Arena to Pigeon Point	-	-	-
Pigeon Point to U.S./Mexico border	-	-	-

Metric equivalents: 24.0 in=61.0 cm, 22.0 in=55.9 cm, 20.0 in=50.8 cm, and 16.0in=40.6 cm.

### *C. Requirements, Definitions, Restrictions, or Exceptions*

#### **C.1. Compliance with Minimum Size and Other Special Restrictions**

All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught. Salmon may not be filleted or salmon heads removed prior to landing.

Ocean Boat Limits: Off the coast of Washington, Oregon, and California, each fisher aboard a vessel may continue to use angling gear until the combined daily limits of Chinook and coho salmon for all licensed and juvenile anglers aboard have been attained (additional state restrictions may apply).

#### **C.2. Gear Restrictions**

Salmon may be taken only by hook and line using barbless hooks. All persons fishing for salmon, and all persons fishing from a boat with salmon on board must meet the gear restrictions listed below for specific areas or seasons.

- a. U.S./Canada border to Point Conception, CA: No more than one rod may be used per angler; and no more than two single point, single shank, barbless hooks are required for all fishing gear.
- b. Latitude 40°10' N to Point Conception, CA: Single point, single shank, barbless circle hooks (see gear definitions below) are required when fishing with bait by any means other than trolling, and no more than two such hooks shall be used. When angling with two hooks, the distance between the hooks must not exceed 5 inches (12.7 cm) when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

### C.3. Gear Definitions

- a. *Recreational fishing gear*: Off Oregon and Washington, angling tackle consists of a single line that must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off California, the line must be attached to a rod and reel held by hand or closely attended; weights directly attached to a line may not exceed 4 pounds (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.
- b. *Trolling*: Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

- c. *Circle hook*: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

#### C.4. Control Zone Definitions

- a. *The Bonilla-Tatoosh Line*: A line running from the western end of Cape Flattery to Tatoosh Island Lighthouse (48°23'30" N lat., 124°44'12" W long.) to the buoy adjacent to Duntze Rock (48°24'37" N lat., 124°44'37" W long.), then in a straight line to Bonilla Point (48°35'39" N lat., 124°42'58" W long.) on Vancouver Island, British Columbia.
- b. *Grays Harbor Control Zone*: The area defined by a line drawn from the Westport Lighthouse (46°53'18" N lat., 124°07'01" W long.) to Buoy #2 (46°52'42" N lat., 124°12'42" W long.) to Buoy #3 (46°55'00" N lat., 124°14'48" W long.) to the Grays Harbor north jetty (46°55'36" N lat., 124°10'51" W long.).
- c. *Columbia Control Zone*: An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N lat., 124°06'50" W long.) and the green lighted Buoy #7 (46°15'09" N lat., 124°06'16" W long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N lat., 124°03'07" W long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15'48" N lat., 124°05'20" W long. and then along the north jetty to the point of intersection with the Buoy #10 line; and on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N lat., 124°04'05" W long.), and then along the south jetty to the point of intersection with the Buoy #10 line.
- d. *Stonewall Bank YRCA*: The area defined by the following coordinates in the order listed:

44°37.46' N lat.; 124°24.92' W long.

44°37.46' N lat.; 124°23.63' W long.

44°28.71' N lat.; 124°21.80' W long.

44°28.71' N lat.; 124°24.10' W long.

44°31.42' N lat.; 124°25.47' W long.

And connecting back to 44°37.46' N lat.; 124°24.92' W long.

- e. *Klamath Control Zone*: The ocean area at the Klamath River mouth bounded on the north by 41°38'48" N lat. (approximately 6 nm (11 km) north of the Klamath River mouth); on the west by 124°23'00" W long. (approximately 12 nm (22 km) offshore); and, on the south by 41°26'48" N lat. (approximately 6 nm (11 km) south of the Klamath River mouth).

#### C.5. Inseason Management

Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration. In addition to standard inseason actions or modifications already noted under the Season Description heading above, the following inseason guidance applies:

- a. Actions could include modifications to bag limits, or days open to fishing, and extensions or reductions in areas open to fishing.
- b. Coho salmon may be transferred inseason among recreational subareas north of Cape Falcon to help meet the recreational season duration objectives (for each subarea) after conferring with representatives of the affected ports and the Council's SAS recreational representatives north of Cape Falcon, and if the transfer would not result in exceeding preseason impact expectations on any stocks.
- c. Chinook salmon and coho salmon may be transferred between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the

representatives of the SAS, and if the transfer would not result in exceeding preseason impact expectations on any stocks.

- d. Fishery managers may consider inseason action modifying regulations restricting retention of unmarked (adipose fin intact) coho salmon. To remain consistent with preseason expectations, any inseason action shall consider, if significant, the difference between observed and preseason forecasted (adipose-clipped) mark rates. Such a consideration may also include a change in bag limit of two salmon, no more than one of which may be a coho salmon.
- e. Marked coho salmon remaining from the Cape Falcon to Oregon/California Border: recreational mark-selective coho salmon quota may be transferred inseason to the Cape Falcon to Humbug Mountain non-mark-selective recreational fishery or the Cape Falcon to Humbug Mountain commercial troll fishery if the transfer would not result in exceeding preseason impact expectations on any stocks.
- f. Deviations from the allocation of allowable ocean harvest of coho salmon in the area south of Cape Falcon may be allowed in order to meet consultation standards for ESA-listed stocks (FMP 5.3.2). Therefore, any rollovers that result in a deviation from the south of Cape Falcon coho salmon allocation schedule between sectors would still fall underneath this exemption.
- g. Waypoints for the 40-fathom regulatory line from Cape Falcon to Humbug Mountain (50 CFR 660.71(0)(12)-(62)), when in place.

#### C.6. Additional Seasons in State Territorial Waters

Consistent with Council management objectives, the states of Washington, Oregon, and California may establish limited seasons in state waters. Check state regulations for details.

### **Section 3. Treaty Indian Management Measures for 2023 Ocean Salmon Fisheries**

Parts A, B, and C of this section contain requirements that must be followed for lawful participation in the fishery.

Overall Chinook salmon and/or coho salmon TACs may need to be reduced or fisheries adjusted to meet NMFS ESA guidance, FMP requirements, upon conclusion of negotiations in the North of Falcon forum, or upon receipt of preseason catch and abundance expectations for Canadian and Alaskan fisheries.

In 2024, the season will open May 1, consistent with all preseason regulations in place for Treaty Indian Troll fisheries during May 16 - June 30, 2023. All catch in May 2024 applies against the 2024 Treaty Indian Troll fisheries quota. This opening could be modified following Council review at its March and/or April 2024 meetings.

*A. Season Descriptions*

May 1 through the earlier of June 30, or 22,500 Chinook salmon quota.

All salmon may be retained except coho salmon. If the Chinook salmon quota is exceeded, the excess will be deducted from the later all-salmon season (see C.5). See size limit (see B) and other restrictions (see C).

July 1 through the earlier of September 15, or 22,500 Chinook salmon quota or 57,000 coho salmon quota.

All salmon. See size limit (see B) and other restrictions (see C).

*B. Minimum Size (Inches)*

**Table 3- Minimum Size Limits for Salmon in the 2023 Treaty Indian Ocean Salmon Fisheries.**

Area (when open)	Chinook		Coho		Pink
	Total Length	Head-off	Total Length	Head-off	
North of Cape Falcon	24.0 in	18.0 in	16.0 in	12.0 in	None

Metric equivalents: 24.0 in=61.0 cm, 18.0 in=45.7 cm, 16.0in=40.6 cm, 12.0 in=30.5 cm.

*C. Requirements, Definitions, Restrictions, or Exceptions*

**C.1. Tribe and Area Boundaries**

All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

S'KLALLAM - Washington State Statistical Area 4B (defined to include those waters of Puget Sound easterly of a line projected from the Bonilla Point light on Vancouver Island to the Tatoosh Island light, thence to the most westerly point on Cape Flattery and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River [Washington Administrative Code 220-301-030]).

MAKAH - Washington State Statistical Area 4B and that portion of the Fishery Management Area (FMA) north of 48°02'15" N lat. (Norwegian Memorial) and east of 125°44'00" W long.

QUILEUTE - A polygon commencing at Cape Alava, located at lat. 48°10'00" N, long. 124°43'56.9" W; then proceeding west approximately 40 nm (74 km) at that latitude to a northwestern point located at lat. 48°10'00" N, long. 125°44'00" W; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than 40 nm (74 km) from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at lat. 47°31'42" N, long. 125°20'26" W; then proceeding east along that line of latitude to the Pacific coast shoreline at lat. 47°31'42" N, long. 124°21'9.0" W.

HOH - That portion of the FMA between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N lat. (Quinault River) and east of 125°44'00" W long.

QUINAULT - A polygon commencing at the Pacific coast shoreline near Destruction Island, located at lat. 47°40'06" N, long. 124°23'51.362" W; then proceeding west approximately 30 nm (55.6 km) at that latitude to a northwestern point located at lat. 47°40'06" N, long. 125°08'30" W; then proceeding in a southeasterly direction mirroring the coastline no farther than 30 nm (55.6 km) from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at lat. 46°53'18" N, long. 124°53'53" W; then



proceeding east along that line of latitude to the Pacific coast shoreline at lat. 46°53'18" N, long. 124°7'36.6" W.

#### C.2. Gear Restrictions

- a. Single point, single shank, barbless hooks are required in all fisheries.
- b. No more than eight fixed lines per boat.
- c. No more than four hand held lines per person in the Makah area fishery (Washington State Statistical Area 4B and that portion of the FMA north of 48°02'15" N lat. (Norwegian Memorial) and east of 125°44'00" W long.).

#### C.3. Quotas

- a. The quotas include troll catches by the S'Klallam and Makah Tribes in Washington State Statistical Area 4B from May 1 through September 15.
- b. The Quileute Tribe may continue a ceremonial and subsistence fishery during the time frame of October 1 through October 15 in the same manner as in 2004-2015. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2024 season (estimated harvest during the October ceremonial and subsistence fishery: 20 Chinook salmon; 40 coho salmon).

#### C.4. Area Closures

- a. The area within a 6 nm (11 km) radius of the mouths of the Queets River (47°31'42" N lat.) and the Hoh River (47°45'12" N lat.) will be closed to commercial fishing.
- b. A closure within 2 nm (3.7 km) of the mouth of the Quinault River (47°21'00" N lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

#### C.5. Inseason Management

In addition to standard inseason actions or modifications already noted under the “Season Description” heading above, the following inseason guidance is provided by NMFS:

- a. Chinook remaining from the May through June treaty-Indian ocean troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline on a fishery impact equivalent basis.

#### **Section 4. Halibut Retention**

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery, which appear at 50 CFR part 300, subpart E. On March 7, 2023, NMFS published a final rule announcing the International Pacific Halibut Commission’s (IPHC) regulations, including season dates, management measures, TAC for each IPHC management area including the U.S. West Coast (Area 2A), and Catch Sharing Plan for the U.S. waters off of Alaska (88 FR 14966, March 7, 2023). The Area 2A Catch Sharing Plan, in combination with the IPHC regulations, provides that vessels participating in the salmon troll fishery in Area 2A, which have obtained the appropriate permit, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved by the IPHC and implemented by NMFS. During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest permit may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.3 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on.

Permit applications for incidental harvest must be obtained from the WCR Permits Office (phone: 562-980-4238 or [wcr-permits@noaa.gov](mailto:wcr-permits@noaa.gov)). Applicants must apply prior to March 1 for 2023 permits. Incidental harvest is authorized only during April, May, and June of the 2023 salmon troll seasons and after June 30 in 2023 if the quota remains and if announced on the NMFS hotline (phone: 800-662-9825 or 206-526-6667). WDFW, ODFW, and CDFW will monitor landings. If the landings are projected to exceed the 45,497 pound (20,637 kg) preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery.

Incidental halibut harvest regulations, including season dates, management measures, and TAC for each IPHC management area, are listed under C.7 of Section 1: Commercial Management Measures for 2023 Ocean Salmon Fisheries.

## **Section 5. Geographical Landmarks**

Wherever the words "nautical miles off shore" are used in this document, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this document are at the following locations:

U.S./Canada border.....	49°00'00" N lat.
Cape Flattery, WA.....	48°23'00" N lat.
Cape Alava, WA.....	48°10'00" N lat.
Queets River, WA.....	47°31'42" N lat.
Leadbetter Point, WA.....	46°38'10" N lat.
Cape Falcon, OR.....	45°46'00" N lat.
South end Heceta Bank Line, OR.....	43°58'00" N lat.
Humbog Mountain, OR.....	42°40'30" N lat.
Oregon-California border.....	42°00'00" N lat.

Humboldt South Jetty, CA.....40°45'53" N lat.  
 40°10' line (near Cape Mendocino, CA)...40°10'00" N lat.  
 Horse Mountain, CA.....40°05'00" N lat.  
 Point Arena, CA.....38°57'30" N lat.  
 Point Reyes, CA.....37°59'44" N lat.  
 Point San Pedro, CA.....37°35'40" N lat.  
 Pigeon Point, CA.....37°11'00" N lat.  
 Point Sur, CA.....36°18'00" N lat.  
 Point Conception, CA.....34°27'00" N lat.  
 U.S./Mexico border.....34°27'00" N lat.

#### **Section 6. Inseason Notice Procedures**

Notice of inseason management actions will be provided by a telephone hotline administered by the West Coast Region, NMFS, 800-662-9825 or 206-526-6667, and by USCG Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be published in the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or USCG broadcasts for current information for the area in which they are fishing.

#### **Classification**

NMFS is issuing this rule pursuant to section 305(d) of the MSA. In a previous action taken pursuant to section 304(b), the Council designed the FMP to authorize NMFS to take this action pursuant to MSA section 305(d). See 50 CFR 660.408. These regulations are being promulgated under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment, as such procedures would be impracticable and contrary to the public interest.

The annual salmon management cycle begins May 16 and continues through May 15 of the following year. May 16 was chosen because it provides the minimally necessary time required to complete the necessary environmental and economic analyses and regulatory documentation following the April Council meeting in time for the Secretary of Commerce to approve and implement the Council's annual recommendation. In addition, these harvests constitute a relatively small portion of the annual catch, allowing for the majority of the season to be governed by the new management measures rule. Analysis by the Council's Salmon Technical Team determined that the pre-May 16 salmon harvests would constitute a relatively small portion of the annual catch. The time frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures depends on when the pertinent biological data are available. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from previous years' observed spawning escapement, vary substantially from year to year and are not available until February because spawning escapement continues through the fall.

The preseason planning and public review process associated with developing Council recommendations is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have

management authority over the stocks. This complex process includes the affected user groups, as well as the general public. The process is compressed into a 2-month period culminating with the April Council meeting at which the Council adopts a recommendation that is forwarded to NMFS for review, approval, and implementation of fishing regulations effective on May 16. Providing the opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the 2-month period required for the development of the regulations. Delaying implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 60 days would require that fishing regulations for May and June be set in the previous year, without the benefit of information regarding current stock abundance. For the 2023 fishing regulations, the current stock abundance was not available to the Council until February. In addition, information related to northern fisheries and stock status in Alaska and Canada which is important to assess the amount of available salmon available to southern U.S. ocean fisheries is not available until mid-to late March. Because a substantial amount of fishing normally occurs during late May and June, managing the fishery with measures developed using the prior year's data could have significant adverse effects on the managed stocks, including ESA-listed stocks. Although salmon fisheries that open prior to May 16 are managed under measures developed the previous year, as modified by the Council at its March and April meetings, relatively little harvest occurs during that period (*e.g.*, on average, 10 percent of commercial and recreational harvest occurred prior to May 1 during the years 2011 through 2018). Allowing the much more substantial harvest levels normally associated with the late-May and June salmon seasons to be promulgated under the prior year's regulations would impair NMFS' ability to protect weak and ESA-listed salmon stocks, and to provide harvest opportunities where appropriate. The choice of May 16 as the beginning of the regulatory season

balances the need to gather and analyze the data needed to meet the management objectives of the salmon FMP and the need to manage the fishery using the best available scientific information.

If the 2023 measures are not in place on May 16, salmon fisheries will not open as scheduled. This would result in lost fishing opportunities, negative economic impacts, and confusion for the public as the state fisheries adopt concurrent regulations that conform to the Federal management measures.

In addition, these measures were developed with significant public input. Public comment was received and considered by the Council and NMFS throughout the process of developing these management measures. As described above, the Council took comments at its March and April meetings and heard summaries of comments received at public meetings held between the March and April meetings for each of the coastal states. NMFS also invited comments in a notice published prior to the March Council meeting, and considered comments received by the Council through its representative on the Council.

Based upon the above-described need to have these measures effective on May 16, and the fact that there is limited time available to implement these new measures after the final Council meeting in April, and before the commencement of the 2023 ocean salmon fishing year on May 16, NMFS has concluded it would be impracticable and contrary to the public interest to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The Assistant Administrator for Fisheries also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness of this final rule. As previously discussed, data were not available until February, and management measures were not finalized until mid-April. These measures are essential to conserve threatened and endangered ocean salmon stocks as well as potentially overfished stocks, and to

provide for the harvest of more abundant stocks. Delaying the date of effectiveness of these measures by 30 days could compromise the ability of some stocks to attain their conservation objectives, preclude harvest opportunity, and negatively impact anticipated international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action and the requirements of the MSA.

To enhance the fishing industry's notification of these new measures, and to minimize the burden on the regulated community required to comply with the new regulations, NMFS is announcing the new measures over the telephone hotline (800-662-9825 or 206-526-6667) used for inseason management actions and is posting the regulations on its West Coast Region website ([www.fisheries.noaa.gov/region/west-coast](http://www.fisheries.noaa.gov/region/west-coast)). NMFS is also advising the states of Washington, Oregon, and California of the new management measures. These states announce the seasons for applicable state and federal fisheries through their own public notification systems.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office of Management and Budget (OMB) under control number 0648-0433. The current information collection approval expires on February 29, 2024. The public reporting burden for providing notifications if landing area restrictions cannot be met is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.



Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This final rule was developed after meaningful consultation with the tribal representative on the Council who has agreed with the provisions that apply to tribal vessels.

**Authority:** 16 U.S.C. 773-773k; 1801 *et seq.*

Dated: May 8, 2023.

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Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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